



**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICKEY EGBERTO,
Plaintiff,

v.
NEVADA DEPARTMENT OF
CORRECTIONS., *et al.*,
Defendants.

Case No.: 3:06-CV-715-RCJ(RAM)

ORDER

Before the Court for consideration is the Report and Recommendations (#55) of U.S. Magistrate Judge Robert A. McQuaid, Jr., entered May 27, 2008. This action was referred to U.S. Magistrate Judge Robert A. McQuaid, Jr., pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4. On June 19, 2008, Defendants filed a Motion for Enlargement of Time (#64) in which to file their objections to the Report and Recommendations, and attached Exhibit (#64-2) Motion for Reconsideration of U.S. Magistrate Judge's Report and Recommendation. Defendants also submitted a *Sealed* Motion for *In Camera* Submission of Medical Records (#65).

Also before the Court is Defendants' Motion to Strike (#71) filed on July 7, 2008, requesting that the Court strike the following pleadings filed on behalf of the Plaintiff by his wife Natalie Smith Egberto, Plaintiff's Objections to Motions filed While Case is Stayed (#68), Motion to Permit Late Filing of Plaintiff's Objections in Part to Magistrate Judge's Report and

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1 Recommendations due to Excusable Neglect (#67) and Plaintiff's Response to Defendants'
2 Motion for Reconsideration of U.S. Magistrate Judge's Report and Recommendation and
3 Plaintiff's Objections to Magistrate Judge's Report and Recommendations (#69/70) filed on
4 June 24, 2008.

5 Also before the Court is Plaintiff's Reconsideration of Plaintiff Motion for Preliminary
6 Injunction (#119) filed September 15, 2009.

7 I. ANALYSIS

8 A. Review of Magistrate Judge's Order

9 Any party may object to a magistrate judge's case dispositive proposed order, findings,
10 or recommendations. 28 U.S.C. § 636(b)(1)(B); Fed.R.Civ.P. 72(b); LR 74.2. The district
11 court must make a *de novo* determination of those portions of the magistrate judge's report
12 to which objection is made and may accept, reject, or modify, in whole or in part, the findings
13 or recommendations made by the magistrate judge. *Id.* De novo review means the court must
14 consider the matter anew, the same as if it had not been heard before and as if no decision
15 previously had been rendered. *Ness v. Commissioner*, 954 F.2d 1495, 1497 (9th Cir. 1992).
16 Thus, although the district court need not hold a de novo hearing, the court's obligation is to
17 arrive at its own independent conclusion about those portions of the magistrate judge's
18 findings or recommendation to which objections are made. *United States v. Remsing*, 874
19 F.2d 614, 617 (9th Cir. 1989).

20 After conducting a *de novo* review of the record, the Court accepts and adopts the
21 Magistrate Judge's Recommendation (#55).

22 III. Conclusion

23 IT IS HEREBY ORDERED that Plaintiff's Motion for Preliminary Injunction (#35) is
24 GRANTED in part and DENIED in part as follows:

25 1. A preliminary injunction ordering Defendants to follow Dr. Long's recommended
26 course of treatment or ordering Defendants to send Plaintiff for another evaluation by an
27 equivalent doctor and then following that doctor's recommended course of treatment is
28 GRANTED.

IT IS FURTHER ORDERED that the Clerk of the Court shall STRIKE Docket Entries
(#67) (#68) (#69) & (#70) from the Court's record.

IT IS FURTHER ORDERED that Defendants' Motion for Reconsideration of U.S. Magistrate Judge's Report and Recommendation (#64-2) is DENIED.

10 IT IS FURTHER ORDERED that Plaintiff's Reconsideration of Plaintiff Motion for
11 Preliminary Injunction (#119) is DENIED.

13 DATED: This 3 day of November, 2009.

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